

**IN THE COURT OF APPEALS OF IOWA**

No. 3-1214 / 13-0444  
Filed January 9, 2014

**STATE OF IOWA,**  
Plaintiff-Appellee,

**vs.**

**EVAN MICHAEL PFEIFER,**  
Defendant-Appellant.

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Appeal from the Iowa District Court for Johnson County, Mitchell E. Turner, Judge.

Evan Pfeifer appeals his conviction, alleging his trial counsel was ineffective and alleging that the trial court erred in allowing opinion testimony.

**AFFIRMED.**

Leon Spies of Mellon & Spies, Iowa City, for appellant.

Thomas J. Miller, Attorney General, Richard Bennett, Assistant Attorney General, Janet M. Lyness, County Attorney, and Anne M. Lahey, Assistant County Attorney, for appellee.

Considered by Vogel, P.J., and Mullins and McDonald, JJ.

**McDONALD, J.**

Following a jury trial, defendant Evan Pfeifer was convicted of sexual abuse in the third degree, in violation of Iowa Code sections 709.1(1), 709.4(1), and 702.17 (2009). The evidence showed that Pfeifer committed a sex act by force or against the will of J.S. following a night football game in Iowa City.

Pfeifer claims his trial counsel was constitutionally ineffective for failing to object to the prosecutor's statement during closing argument that purportedly related to Pfeifer's decision not to testify at his trial. Pfeifer also claims that his counsel was constitutionally ineffective by failing to advise Pfeifer of the strategic consequences of Pfeifer's failure to testify at his trial. Claims of ineffective assistance of counsel "need not be raised on direct appeal from the criminal proceedings in order to preserve the claim for postconviction relief purposes." Iowa Code § 814.7(1). When such claims are presented on direct appeal, however, the "court may decide the record is adequate to decide the claim or may choose to preserve the claim for determination under chapter 822." Iowa Code § 814.7(3). The State argues that the record is inadequate to resolve Pfeifer's claims on the merits. We agree, and we preserve these claims for postconviction relief. See *State v. Tate*, 710 N.W.2d 237, 240 (Iowa 2006) (preserving claim for postconviction review and stating "[o]nly in rare cases will the trial record alone be sufficient to resolve the claim on direct appeal").

Pfeifer also contends that the court erred in allowing the lead investigator in the criminal investigation to give purported opinion testimony bolstering the victim's credibility. During trial, Pfeifer's counsel objected to the lead

investigator's testimony as "speculation." "It is incumbent upon the objecting party to lodge specific objections so the trial court is not left to speculate whether the evidence is in fact subject to some infirmity that the objection does not identify." *State v. Taylor*, 310 N.W.2d 174, 177 (Iowa 1981) (internal citation omitted). "Every ground of exception that is not particularly specified is considered abandoned." *Id.* "A party cannot announce one reason for an objection at trial and on appeal rely on a different one to challenge an adverse ruling." *Id.* "[T]he objection 'it is speculation' preserves nothing for review." *Id.* Accordingly, we hold that Pfeifer did not preserve the alleged error for review. *See id.* To the extent that Pfeifer claims his trial counsel was ineffective by failing to make a proper objection, that claim is preserved for postconviction review.

**AFFIRMED.**